

## **REMARKS**

Claims 1-40 were rejected and remain pending. Claims 41-60 were previously canceled. Reconsideration of the rejections is respectfully requested.

### **Claim Rejections – 35 U.S.C. § 102**

In the Final Office Action (“FOA”), claims 1-40 were rejected under 35 U.S.C. § 102 (e) as being anticipated by U.S. Patent No. 6,771,981 to Zalewski.

In order to anticipate a claim, the reference must teach every element of the claim. MPEP 2131. “The identical invention must be shown in as complete detail as is contained in the ... claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim, but this is not an *ipsissimis verbis* test, i.e., identity of terminology is not required. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).

For reasons set forth below, Applicants respectfully submit that Zalewski fails to clearly and unambiguously teach at least one of the features of each independent claim of claims 1-40.

Claim 1, e.g., recites a method for providing a radio frequency identification (RFID) comprising:

facilitating a user in providing an instruction to a component of a mobile communication device to output a first data, said output emulating an output of the first data by an active RFID transponder, the component being also equipped to facilitate a user in communicating with a user of another communication device, with the communication being facilitated at least in part over a wireless network; and

in response to said providing an instruction, outputting the first data in the form of a radio frequency signal, said outputting emulating output of the first data by an active RFID transponder.

Therefore, claim 1 recites a novel method in which an emulated radio frequency identification (RFID) is provided by a mobile communication device. The RFID emulates a transmission of an *active* RFID transponder, and is transmitted “*in response to said providing an instruction.*” Further, the mobile communication device includes a component that is equipped to facilitate communication with users of other mobile devices over a wireless network, and the *same* component is also to facilitate a user in providing the instruction to the mobile communication device to output the emulated RFID.

To support the Examiner’s rejections, the Examiner reasoned that Zalewski teaches embedding a RF transponder in a changeable cover 100, which can be attached to a mobile station. The RF transponder is interrogated by a reader and provides RFID codes in response. Zalewski further teaches that cover 100 may also include optical relays for transferring optical signals, or equivalents such as EM energy sensors, or optical devices such as DWMA or SAW (col. 8, lines 23-27). Further, the Examiner asserted that Zalewski also teaches that a user may use the mobile station to send a reservation request to a central reservation site 800. The central reservation site 800 may reply with a room number, ID code, directions, or other information sent to the mobile device. The user then proceeds to the room and places mobile station 4 near the door lock 820. The door lock interrogates the cover 100, and the cover responds with the code from the central reservation site, unlocking the door (col. 16, lines 35-42 and 42-47).

First of all, in the above passage, Zalewski merely disclosed that the ID code received from the server is “sent” to the door. Zalewski did not explicitly state how the ID code is sent to the door. In addition to the RFID transponder, Zalewski teaches that the cover may be equipped for optical or other signaling means. If the ID code is sent by the cover’s RF transponder, then the ID code is sent as an RFID, *not an emulated RFID signal.*

On the other hand, if the ID Code is sent using the optical or equivalent signaling means, it can be sent in accordance with any one of a number communication protocols; it is not inherent that the ID code must be sent as an *emulated RFID signal.*

Even if we ignore the foregoing, and assume arguendo that the ID code is sent as *an emulated RFID signal*, Zalewski clearly teaches that the ID Code is sent to the door in

response to the interrogation of the door. Thus, at best, Zalewski anticipates emulating a RFID transmission of a *passive* RF transponder (responsive transmission), and not emulating an *active* RFID transponder (transmitting RFID on its own and not necessarily responding to any interrogation).

Further, Zalewski clearly fails to anticipate the recitation of claim 1 requiring the emulated RFID signal to be provided “in response to said instruction” The instruction from the user to the communication device to contact a remote server to obtain an access ID cannot be said to read as clearly and unambiguously teaching or anticipating the recitation of claim 1, which requires “providing an instruction to the communication device to output a first data, said output emulating an output of the first data by an active RFID transponder.” It follows that Zalewski cannot be read as providing *such* an instruction to a component of the communication device that is also responsible for facilitating wireless communication.

As noted earlier, rejections under section 102 require clear and unambiguous teaching from the single reference. For at least the above reasons, Applicants respectfully submit that claim 1 is patentable over Zalewski.

Claims 2-12 depend directly or indirectly from claim 1, incorporating its recitations, and are thus patentable over Zalewski for at least the same reasons.

Independent claims 13, 21 and 33 were rejected for the same reasons as claim 1. These claims recite subject matter substantially similar to that of claim 1, and are thus patentable over Zalewski for at least the same reasons.

Claims 14-20 depend from claim 13, incorporating its recitations. Claims 22-32 depend from claim 21, incorporating its recitations. Claims 34-40 depend from claim 33, incorporating its recitations. Therefore, claims 14-20, 22-32 and 34-40 are also allowable over Zalewski for at least the same reasons.

In addition, the dependent claims are further patentable over Zalewski by virtue of their additional recitations. For examples, claims 9-11, 14-20, 29-31 and 33-40 additionally recite or incorporate the recitation of “monitoring for proximal presence of a RFID reader *by a mobile communication device*” or a substantially similar feature. Page 3 of the FOA states with regard to this feature that “[s]ince the cover 100 responds to the interrogation of the door lock, the cover 100 is monitoring for proximal presence of the RFID reader.” Applicants agree with the Examiner. Since Zalewski’s cover does not include the component for performing wireless communication, Zalewski’s cover does not anticipate the *communication device* recited in the independent claims. And since a *non-communication device cover* performs the monitoring in Zalewski, Zalewski fails to teach or anticipate the required “monitoring by the mobile communication device” recited.

For at least these reasons, Applicants submit that all pending claims are patentable over Zalewski. Notice of allowance is respectfully requested.

### CONCLUSION

In view of the foregoing amendments and remarks, Applicants believe the applicable rejections have been overcome and all claims remaining in the application are presently in condition for allowance. Accordingly, favorable consideration and a Notice of Allowance are earnestly solicited. The Examiner is invited to telephone the undersigned representative at (206) 622-1711 if the Examiner believes that an interview might be useful for any reason.

It is not believed that extensions of time are required beyond those that may otherwise be provided for in documents accompanying this paper. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a).

If the Examiner has any questions concerning the present paper, the Examiner is kindly requested to contact the undersigned at (206) 622-1711. If any fees are due in connection with filing this paper, the Commissioner is authorized to charge the Deposit Account of Schwabe, Williamson and Wyatt, P.C., No. 50-0393.

Respectfully submitted,  
SCHWABE, WILLIAMSON & WYATT, P.C.

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